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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,276	03/17/2004	Gerald D. Fuller	24462.2	4222
716	7590	10/18/2004		
COX SMITH MATTHEWS INCORPORATED 112 EAST PECAN STREET, SUITE 1800 SAN ANTONIO, TX 78205-1521				
			EXAMINER SOLIS, ERICK R	
			ART UNIT	PAPER NUMBER

3747

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/802,276	Applicant(s) FULLER, GERALD D.	
	Examiner Erick R Solis	Art Unit 3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/17/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5,13-17,19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Smits (US Patent No. 2779898). Smits teaches the use of an auxiliary capacitor (condenser (20) of Fig. 2) for boosting the supplied energy to an ignition circuit during starting. A rechargeable battery (13) is included in the circuit. See Fig. 2, col. 1, lines 71- col. 2, line 20 and col. 2, line 60-73.
3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Mottier et al (US Patent No. 5630384). See the abstract.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smits. Smits applies as above, but does not teach the use of sensors, nor the type of starting arrangement. Applicant is hereby placed on official notice that sensors


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including engine rotation sensors and programmable ignition systems are well known as are each of the starting devices claimed in Claims 9-12. It would have been obvious to one of ordinary skill in the art to have used such known advances in the art in Smits engine since this would have allowed for better control of ignition timing.

5. Claims 6-12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyke. Van Dyke applies as above, but does not teach the use of sensors, nor the type of starting arrangement. Applicant is hereby placed on official notice that sensors including engine rotation sensors and programmable ignition systems are well known as are each of the starting devices claimed in Claims 9-12. It would have been obvious to one of ordinary skill in the art to have used such known advances in the art in Smits engine since this would have allowed for better control of ignition timing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erick R. Solis whose telephone number is (703) 308-2651. The examiner can normally be reached on Monday-Thursday.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.



Erick R. Solis
Primary Examiner
Art Unit 3747

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October 14, 2004